

REMARKS/ARGUMENTS

Claims 1-27 are pending in the application.

Claims 1-27 are rejected.

Claim Rejections under 35 U.S.C. § 103

Claims 1, 14-15 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mizoguchi, EP Patent 0 678 816 A2. (hereinafter “Mizoguchi”) The invention relates generally to the filing, recording, and searching of digital photographs and related data within a camera. (col. 2, ll. 16-21). Because the invention was designed for a camera, the method and apparatus disclosed by Mizoguchi does not teach or suggest the method and method for archiving and retrieving items based on episodic memory of groups of people, as disclosed by Applicants.

As per the limitations of claims 1, 14-15 and 17, Examiner refers to col. 9, ll. 8-9 as corresponding to Applicants’ limitation of receiving a user input identifying a group to which the user belongs. Applicants respectfully submit that the Examiner has mistakenly identified a name of place (“ABC Golf Club”) or name of person in the photograph (“Yoshida” in col. 9, ll.3-4), as identifying a group to which the user belongs. Applicants submit that Mizoguchi does not teach or suggest having or utilizing predefined data which identifies the user or groups of people to which the user belongs. A notable feature of the invention is the predefined distinct groups of people to which the user belongs to index the archived digital media items. (please refer to *Title; Application*, p. 3, 2nd full paragraph; *preamble* of independent claims 1, 14-15 and 17) When a user wishes to use the system, they will enter a user name and password, identifying themselves as a member of a group. Also, the item stored are associated to the group to which the user belongs. (see *Application*, p. 12, 3rd and 4th full paragraphs)

In addition, Examiner concedes that Mizoguchi does not explicitly teach generating index information using the received user archiving input; storing the index information in association with the identified digital media item; repeating the reception of user archiving input, the generation of the index information and the storing of the index information for a plurality of digital media items. However, Examiner states that the described process of Mizoguchi in col. 8, ll. 29-45 clearly teaches Applicants' information indexing system. Applicants respectfully submit that Mizoguchi describes therein a method of comparing scheduled data previously input into a scheduler against currently entered event data, and associating or not associating the scheduled data with the currently entered event data after a comparison of the data.

In the example to which Examiner refers, a photograph (image) is taken at the stated "photographic time." Because the date and time fit ("1993/01/22/13/28") within the parameters of the scheduled event data ("1993/01/22/08/00 – 1993/01/22/17/00"), the photograph is associated with the scheduled date/time information. Also, because "golf" was input into the scheduler for this date/time, the event golf becomes associated with the photograph. Another parameter with scheduled event data ("1993/01/22/17/00 – 1993/01/22/19/00") is not associated with the photograph after a comparison with the photographic time. No index is created by the invention disclosed by Mizoguchi. Rather, an association of event data with the image is created by comparison of scheduled events and the photographic time. This scheduling system and apparatus of Mizoguchi does not teach or suggest a method for generating an indexing system for data input by the user. In accordance with the invention disclosed by Applicants, the indexes are created by storing associated information with every digital media item, including but not limited to, registered people, event types, and dates to be associated. Any portion of the index

information can then be used for fast access to the digital media items during retrieval. These indexes create a classification system, allowing a user to retrieval the digital media items in one of several methods. (see *Application*, p. 14, 4th full paragraph) Applicants respectfully submit that the scheduler and comparison unit of Mizoguchi does not teach or suggest the generation and storing of index information for a multitude of digital media items as disclosed by Applicants. Therefore, Applicants submit that 1, 14-15 and 17 are allowable.

As per claims 2 and 18, as argued above, Mizoguchi does not teach or suggest a user identified within group. In addition, Applicants submit claims 2 and 18 are allowable as depending from allowable base claims 1 and 17, respectively.

As per claims 3 and 19, Mizoguchi does not teach or suggest defining distinct groups of people with defined group events to distinguish episodic events memorable to the group. Although Examiner points to an example (col. 7, ll. 30-41), the example shows data input of a person or persons being associated with an event. In this example, Mizoguchi does not define a distinct groups of people nor define group events that are associated to distinguish episodic events for the entire group. In addition, Applicants submit claims 3 and 19 are allowable as depending from allowable base claims 1 and 17, respectively.

As per claims 4 and 20, as argued above, the method and apparatus of Mizoguchi does not generate indexing information or any form of indexes. In addition, Applicants submit claims 4 and 20 are allowable as depending from allowable base claims 1 and 17, respectively.

As per claims 5 and 21, Examiner points to col. 10, ll. 14-17, where Mizoguchi discloses that when the data “golf” is operated, all images having the data “golf” are searched and displayed. There is no indication, teaching, or suggestion by Mizoguchi of a memorable high

point for a given event, date, or group of people as disclosed by Applicants. In addition, Applicants submit claims 5 and 21 are allowable as depending from allowable base claims 1 and 17, respectively.

As per claims 6 and 22, as argued above, Mizoguchi does not teach or suggest of a memorable high point. In addition, Applicants submit claims 6 and 22 are allowable as depending from allowable base claims 5 and 21, respectively.

As per claims 7 and 23, Examiner points to col. 7, ll. 43-45, as an example of index information to include an identification of a media type of the digital media item. As argued above, Mizoguchi does not teach or suggest a method for creating index information or indexes. Furthermore, Examiner points to a numbering system for data types at col. 7, ll 43-45, where the numbers represent “an event, time, a person, a place and other data.” Mizoguchi does not teach or suggest including identification of additional media types because the method and apparatus is meant for cameras and still photographs, a single digital media type. In addition, Applicants submit claims 7 and 23 are allowable as depending from allowable base claims 1 and 17, respectively.

As per claims 8 and 24, as argued above, Mizoguchi does not teach or suggest of an identification of the media type of the digital media item. In addition, Applicants submit claims 8 and 24 are allowable as depending from allowable base claims 7 and 23, respectively.

As per claims 9 and 25, as argued above, the method and apparatus of Mizoguchi does not generate indexing information or any form of indexes. Mizoguchi does not teach or suggest that from a user’s input for a plurality of digital media items, the user is associated with the identified digital media items. As such, Mizoguchi does not identify the user. In addition,

Applicants submit claims 9 and 25 are allowable as depending from allowable base claims 1 and 17, respectively.

As per claim 10, as argued above, the method and apparatus of Mizoguchi does not generate indexing information or any form of indexes. In addition, Applicants submit claim 10 is allowable as depending from allowable base claim 9.

As per claim 11, Applicants submit claim 11 is allowable as depending from allowable base claim 10.

As per claim 26, Applicants submit claim 26 is allowable as depending from allowable base claim 25.

Based on the amendments and arguments above, reconsideration and withdrawal of the rejection of claims 1-11, 14-15, 17-25 under 35 U.S.C. § 103(a) is respectfully requested.

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Mizoguchi et al., EP Patent 0 678 816 A2, in view of Batson et al., U.S. Patent No. 5,828,904 (hereinafter "Batson").

With respect to Examiner's argument, Batson relates to synchronization, storage and retrieval models for multimedia objects, more specifically to the synchronization of time dependent data. The invention relates particularly to video and audio data and the sequence of video frames corresponding with audio frames. (see *Abstract, Summary of the Invention*, col. 2, ll. 27-30). In reference to Examiner's example at col. 8, ll. 44-51, the retrieval request is in the context of "a movie involving multiple video tracks, multiple audio tracks, or multiple tracks of other time based data or multiple tracks of different forms of time-based data." (see col. 8, ll.14-

17) Applicants respectfully submit that Applicants' disclosed invention does not relate to the synchronization of video and audio frames, or the retrieval of time dependent data, as described in Batson. Therefore, Applicants respectfully submit that claim 12 is allowable. In addition, Applicants respectfully submit that claim 12 is allowable as depending from an allowable base claim 10.

In addition and in the alternative, Applicants respectfully submit that there is no suggestion or motivation to combine Mizoguchi and Batson beyond the impermissible use of hindsight. Applicants submit that a *prima facie* case of obviousness has not been made. The MPEP requires that the references must suggest making the combinations. MPEP §2141.01 (citing *Hodosh v. Block Drug Co., Inc.*); §706.02(j) (the initial burden is on the examiner to provide a convincing line of reasoning with explicit or implicit suggestions to combine references).

Merely stating that it would have been obvious for a person of ordinary skill in the art to combine references, without pointing to a specific hint or suggestion to combine, has been rejected by the Federal Circuit, as an invalid basis of rejection under 35 U.S.C. §103. *In re Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002)(the court held that rejecting a conclusory statement that it would have been obvious to combine the references without evidence of a teaching, motivation, or suggestion to select and combine the references, citing numerous case); *In re Dembiczak*, 175 F.3d 994,999 (Fed. Cir. 1999) ("Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.")

The Applicants therefore respectfully request Examiner to provide specific evidence of the teaching to combine Mizoguchi and Batson references or withdraw the rejection as improper.

Based on the amendments and arguments above, reconsideration and withdrawal of the rejection of claim 12 under 35 U.S.C. § 103(a) is respectfully requested.

Claims 13 and 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Mizoguchi et al., EP Patent 0 678 816 A2, in view of Korolev et al., U.S. Patent No. 6,438,539 (hereinafter "Korolev").

Korolev relates to a method of actively searching a network (including the world wide web) in response to specified criteria provided by a user. (see *Description of Related Art*, col. 1, ll. 22-29, *Summary of the Invention*, col. 2, ll. 23-26) Examiner refers to col. 17, ll. 2-7, wherein Korolev describes a search agent that changes parameters to find a different array of offers. Korolev does not disclose or suggest the retrieval of digital media items utilizing an index with associated data input by a user. Therefore, Applicants respectfully submit that claims 13 and 27 are allowable. In addition, Applicants respectfully submit that claims 13 and 27 are allowable as depending from an allowable base claims 1 and 17.

In addition and in the alternative, Applicants respectfully submit that Examiner has no suggestion or motivation to combine the references. As argued above for Batson, there is no suggestion or motivation to combine Mizoguchi and Korolev beyond the impermissible use of hindsight. Applicants submit that a *prima facie* case of obviousness has not been made. Applicants therefore respectfully request Examiner to provide specific evidence of the teaching to combine Mizoguchi and Korolev references or withdraw the rejection as improper.

Based on the amendments and arguments above, reconsideration and withdrawal of the rejection of claims 13 and 27 under 35 U.S.C. § 103(a) is respectfully requested.

Furthermore, Applicants respectfully submit that the Final Rejection by Examiner is premature. The features in the independent claims cannot be found in the cited prior art, which were raised for the first time in this final action.

CONCLUSION

For all the above reasons, the Applicant respectfully submits that this application is in condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,
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